



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,306	01/22/2001	Ikuya Kikuchi	041514-5105	8572

9629 7590 06/13/2003

MORGAN LEWIS & BOCKIUS LLP  
1111 PENNSYLVANIA AVENUE NW  
WASHINGTON, DC 20004

EXAMINER

CHU, KIM KWOK

ART UNIT	PAPER NUMBER
----------	--------------

2653

DATE MAILED: 06/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/765,306

Applicant(s)

KIKUCHI ET AL.

Examiner

Kim-Kwok CHU

Art Unit

2653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5. 6) ☐ Other: .

**Claim Rejections - 35 USC § 102**

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless -*

*(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.*

*The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).*

2. Claims 1, 3-5 and 8 are rejected under 35 U.S.C. § 102(e) as being anticipated by Ogasawara et al. (U.S. Patent 6,151,154).

Ogasawara teaches an optical pickup having all of the elements and means as recited in claims 1, 3-5 and 8. For example, Ogasawara teaches the following:

(a) as in claim 1, a light source 1 for emitting a light beam (Fig. 1);

(b) as in claim 1, a phase device 3 for providing the light beam with a phase difference between an inner radius portion 30 of the light beam and an outer radius portion 31-38 of the light beam (Figs. 1 and 11);

(c) as in claim 1, an objective lens 5 for converging the light beam to which the phase difference has been provided and irradiating the converged light beam on an information recording medium 10 (Fig. 1);

(d) as in claim 1, detecting means 7 for respectively detecting an intensity of an inner radius portion of the returning light beam and an intensity of the outer radius portion of the returning light beam from the information recording medium 10, thereby detecting error information of the information recording medium (Figs. 1 and 15; column 17, lines 4-15);

(e) as in claim 3, the phase device 3 is a variable phase device in which the phase difference is varied (Figs. 1 and 14A-14D);

(f) as in claim 4, the phase device 3 is a liquid crystal device in which optical phases of the inner radius portion and the outer radius portion of the light beam emitted from the light source 1 are varied in accordance with an applied voltage ((Figs. 1 and 2A-2C);

(g) as in claim 5, an optical device 2 which is provided at an arbitrary position in an optical path between the light source 1 and the objective lens 5, the optical device 2 separating the light emitted from the light source 1 and the returning light from the information recording medium 10 and supplying the returning light to the detecting means 7 (Fig. 1); and

(h) as in claim 8, information recording or information reproduction is performed by irradiating the light beam on the information recording medium 10 (Fig. 1).

**Claim Rejections - 35 USC § 103**

3. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.*

4. Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara et al. (U.S. Patent 6,151,154) in view of Matsuura (U.S. Patent 6,510,111).

Ogasawara teaches an optical pickup very similar to that of the instant invention. However, Ogasawara does not teach the following:

(a) as in claim 2, phase difference of the phase device is set to a value in a range from  $5\lambda/12$  to  $7\lambda/12$ ; and

(b) as in claim 6, a driving means for positioning the objective lens to a focal point on the basis of the error information detected by the detecting means.

Matsuura teaches a driving means 15 for positioning the objective lens 6 to a focal point on the basis of the error information detected by a detecting means 11 (Fig. 1).

With respect to the range of setting an optical phase device such as Applicant's and Ogasawara's, the setting value is not novel because the setting range is obtained by experimentally adjusting the phase device. In other words, in order to compensate the aberration error caused by the thickness variation of an optical recording medium, it would have been obvious to one of ordinary skill in the art to experiment a set of numbers such as  $5\lambda/12$  to  $7\lambda/12$  so that aberration caused by unevenness of the recording medium would have been cancelled.

On the other hand, with respect to Applicant's positioning of an objective lens based on a detected error, it is not novel. For example, Matsuura controls the focusing position of his objective lens with error signals derived from a photodetector. Hence, although Ogasawara does not teach how his objective lens is driven, for the necessary light focusing operation, it would have been obvious to one of ordinary skill in the art to use an objective lens drive means such as Matsuura's to drive Ogasawara's objective lens, because Ogasawara's objective lens requires a positioning means to focus a light beam.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara et al. (U.S. Patent 6,151,154) in view of Ootaki et al. (U.S. Patent 5,936,923).

Ogasawara teaches an optical pickup very similar to that of the instant invention. However, Ogasawara does not teach the following:

(a) as in claim 7, a spherical aberration compensation device which is provided at an arbitrary position in an optical path between the light source and the objective lens and compensates a spherical aberration of the light emitted from the light source on the basis of an error information detected by the detecting means so as to suppress an influence of the spherical aberration on the light beam that is caused by a thickness error of the information recording medium.

Ootaki teaches the following:

(a) a spherical aberration compensation device 3 which is provided at an arbitrary position in an optical path between the light source 1 and the objective lens 4 and compensates a spherical aberration of the light emitted from the light source 1 on the basis of an error information detected by the detecting means 7 so as to suppress an influence of the spherical aberration on the light beam that is caused by a thickness error of the information recording medium 5 (Fig. 1; column 8; lines 37-41).

Although Ogasawara teaches a phase change device 3 for compensating optical aberrations such as astigmatism, however, when both astigmatism and spherical aberration occur, an additional aberration compensation device is required. Hence, it would have been obvious to one of ordinary skill in the art at the time of invention to place an additional aberration correction device such as Ootaki's in Ogasawara's light path between the light source 1 and the objective lens 4, because the additional aberration compensation device would have properly focus a light beam by varying its refractive index according to the thickness variation of the recording medium.

### **Conclusion**

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wada et al. (6,480,454) is pertinent because Wada teaches a light beam phase control means.

Katayama (6,201,780) is pertinent because Katayama teaches a light beam phase control means.

Lee (5,665,957) is pertinent because Lee teaches a light beam phase control means.

Ando (5,349,592) is pertinent because Ando teaches a light beam phase control means.



7. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks Washington, D.C.  
20231 Or faxed to:

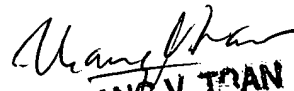
(703) 872-9314 (for formal communications intended for  
entry. Or:

(703) 746-6909, (for informal or draft communications,  
please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park  
II, 2021 Crystal Drive, Arlington. VA., Sixth Floor  
(Receptionist).

Any inquiry of a general nature or relating to the status of  
this application should be directed to the Group receptionist  
whose telephone number is (703) 305-4700.

Any inquiry concerning this communication or earlier  
communications from the examiner should be directed to Kim CHU  
whose telephone number is (703) 305-3032 between 9:30 am to 6:00  
pm, Monday to Friday.

  
THANG V. TRAN  
PRIMARY EXAMINER

lc 6/5/03

Kim-Kwok CHU  
Examiner AU2653  
June 5, 2003

(703) 305-3032